

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

CURTIS LEWIS JONES, #221006,

Petitioner,

v.

Civil No. 1:12-CV-10423

Honorable Thomas L. Ludington

RAYMOND BOOKER,

Respondent.

**ORDER DENYING MOTION FOR RECONSIDERATION AND GRANTING
MOTION FOR EXTENSION OF TIME TO FILE A NOTICE OF APPEAL**

Petitioner has filed two motions. His first motion seeks reconsideration of the dismissal of his petition for a writ of habeas corpus for failing to comply with the one-year statute of limitations applicable to federal habeas actions. His second motion seeks an extension of time to file a notice of appeal. The Court denied a certificate of appealability and denied leave to proceed *in forma pauperis* on appeal at the time it dismissed the petition. Feb. 28, 2013 Op. & Order 9–10, ECF No. 11.

In his motion for reconsideration, Petitioner asserts that the Court erred in concluding that he was not entitled to statutory or equitable tolling of the one-year period and that the Court should have conducted an evidentiary hearing. The Court addressed the issues in its prior order and determined that the petitioner had failed to establish that he was entitled to tolling of the one-year period. The Court finds no reason to reconsider its decision. A motion for reconsideration which presents issues already ruled upon by the court, either expressly or by reasonable implication, will not be granted. *See Hence v. Smith*, 49 F. Supp. 2d 547, 550 (E.D. Mich. 1999); *Czajkowski v. Tindall & Assoc., P.C.*, 967 F. Supp. 951, 952 (E.D. Mich. 1997). Petitioner has not met his burden of showing a palpable defect that misled the Court, nor has he met his burden of showing that a

different disposition must result from the correction of any defects, as required by Local Rule 7.1. *See* E.D. Mich. LR 7.1(h)(3). The Court properly dismissed the petition as untimely.

Petitioner also requests an extension of time to file a notice of appeal. He requests an extension of time due to his request for reconsideration. Under the Federal Rules of Appellate Procedure, a notice of appeal must be filed with the federal district court within 30 days after the judgment or order appealed from is entered. *See* Fed. R. App. P. 4(a)(1)(A). A federal district court may extend the time to file a notice of appeal if a party so moves no later than 30 days after the time prescribed expires and that party shows excusable neglect or good cause. *See* Fed. R. App. P. 4(a)(5). Petitioner filed his motion for an extension of time within 30 days the Court's dismissal of his petition and has thus satisfied the time requirement of Rule 4(a)(5). Additionally, he has shown good cause for his request.

Accordingly, it is **ORDERED** that Petitioner's motion for reconsideration, ECF No. 14, is **DENIED**.

It is further **ORDERED** that Petitioner's motion for an extension, ECF No. 13, is **GRANTED**. Petitioner has until **APRIL 8, 2013** to file a notice of appeal.

Dated: March 25, 2013

s/Thomas L. Ludington
THOMAS L. LUDINGTON
United States District Judge

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means and upon Curtis Jones #221006, Lakeland Correctional Facility, 141 First Street Coldwater, MI 49036 by first class U.S. mail on March 25, 2013.

s/Tracy A. Jacobs
TRACY A. JACOBS